

**STATE OF LOUISIANA
DIVISION OF ADMINISTRATIVE LAW
ETHICS ADJUDICATORY BOARD**

BOARD OF ETHICS

*** DOCKET NO. 2020-7001-ETHICS-A**

IN THE MATTER OF

WARREN “BISCUIT” BASCO

*** AGENCY TRACKING NO. 5120-065**

DECISION AND ORDER

The Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, requested a hearing to have the Ethics Adjudicatory Board determine whether Warren “Biscuit” Basco, in connection with his 2019 candidacy for St. Landry Parish Council Member, District 6, failed to file his 40-G campaign finance disclosure report by the eleventh day after it was due. The Louisiana Board of Ethics proved by clear and convincing evidence that Warren “Biscuit” Basco failed to file this report as alleged. The Louisiana Board of Ethics is authorized to impose an additional civil penalty of up to \$10,000 upon Warren “Biscuit” Basco, as allowed by La. R.S. 18:1505.4(A)(4)(b).

APPEARANCES

The adjudicatory hearing was conducted November 4, 2020, in Baton Rouge, Louisiana, before the Ethics Adjudicatory Board, Panel A.¹ Charles E. Reeves, Jr., counsel for the Louisiana Board of Ethics, appeared for the hearing. Though properly noticed,² Warren “Biscuit” Basco did not appear for the hearing.

¹ The panel consisted of administrative law judges A. Brock Avery (presiding), Lance B. Vinson, and Sherlyn Shumpert.

² The *Conference Report and Order* setting this matter for hearing and Division of Administrative Law correspondence notifying Mr. Basco of the hearing date and time were mailed to his last known address on September 2, 2020. These documents are part of the record in this matter; the Board of Ethics included them as BOE-10, an exhibit that was admitted into evidence.

STATEMENT OF THE CASE

In connection with his 2019 candidacy for St. Landry Parish Council Member, District 6, the Louisiana Board of Ethics (BOE), in its capacity as the Supervisory Committee on Campaign Finance Disclosure, imposed a civil penalty on Warren “Biscuit” Basco (Respondent) for failing to file the campaign finance disclosure report that was due no later than the fortieth day after the general election (the 40-G report). The BOE then requested a hearing to have the Ethics Adjudicatory Board (EAB) determine whether Respondent failed to file his 40-G report by the eleventh day after it was due, which could subject him to an additional civil penalty of up to \$10,000, as provided by La. R.S. 18:1505.4(A)(4)(b).

Counsel for the BOE offered eleven exhibits during the hearing, all of which were admitted into evidence.³ Counsel for the BOE presented its case. The panel held the record open to allow the BOE to submit additional evidence regarding Respondent’s awareness or receipt of information regarding his reporting obligations under the Campaign Finance Disclosure Act (CFDA). The BOE timely submitted additional documentation,⁴ and the administrative record was closed on November 13, 2020.

This adjudication is conducted in accordance with Code of Governmental Ethics, La. R.S. 42:1101, *et seq.*, the CFDA, La. R.S. 18:1481, *et seq.*, the Administrative Procedure Act, La. R.S. 49:950, *et seq.*, and the enabling legislation of the Division of Administrative Law, La. R.S. 49:991, *et seq.*

FINDINGS OF FACT

- 1) Respondent qualified as a candidate for St. Landry Parish Council Member, District 6, an

³ BOE-1 – BOE-11. All of the exhibits had been certified by affidavit to be true and correct copies of the BOE records. BOE-1 (October 21, 2020, affidavit of Carolyn Abadie Landry, Executive Secretary for the BOE).

⁴ BOE-12.

“other” public office, in the November 16, 2019, general election.⁵

- 2) Respondent’s campaign received multiple, individual contributions exceeding two hundred dollars.⁶
- 3) Respondent was required to file a 40-G report no later than December 27, 2019, the fortieth day; after the November 16, 2019, general election.⁷
- 4) Respondent did not file his 40-G report by the December 27, 2019, deadline, nor did he file it by January 7, 2020, the eleventh day after it was due.⁸
- 5) On May 11, 2020, the BOE issued a *Late Fee Assessment Order* to Respondent that (a) assessed a late fee of \$1,000 and (b) ordered Respondent to file his 40-G report.⁹ The *Late Fee Assessment Order* was mailed to Respondent at P.O. Box 1388, Port Barre, Louisiana 70577,¹⁰ which is the mailing address Respondent used on his *Notice of Candidacy*.¹¹ Respondent was notified in the letter accompanying the *Late Fee Assessment Order* that he could be subject to “an additional \$10,000 penalty” if he failed to file the 40-G report.¹²
- 6) The BOE mailed a copy of the *Request for Hearing* to Respondent’s post office box; it was delivered on July 31, 2020.¹³

⁵ See BOE-2 (Louisiana Secretary of State certificate and *Notice of Candidacy*). Respondent was defeated in the election, receiving forty-five percent of the vote. BOE-3 (Louisiana Secretary of State – Official Results for November 6, 2019, election), p. 1).

⁶ BOE-6 (BOE’s July 24, 2020, *Request for Hearing*), Exhibit No. 1 (Respondent’s 90-P report listing campaign contributions and expenditures/disbursements for the period June 5 to September 2, 2019).

⁷ See La. R.S. 18:1495.4(B)(6).

⁸ BOE-8 (Affidavit of Angela Newsom, Director of Campaign Finance for the BOE, stating that, as of October 13, 2020, Respondent had still not filed his 40-G report). As of the date of the hearing, there was nothing in the record showing that Respondent had filed the 40-G report and/or paid the assessed late fee (civil penalty).

⁹ BOE-7 (May 11, 2020, *Late Fee Assessment Order* and cover letter).

¹⁰ *Id.* at p. 1.

¹¹ BOE-12 (State of Louisiana – Notice of Candidacy (Qualifying Form), signed by Respondent on August 6, 2019).

¹² BOE-7, p. 1.

¹³ See BOE-6.

7) Respondent did not respond to the *Late Fee Assessment Order*¹⁴ or appear for the November 4, 2020, hearing.

CONCLUSIONS OF LAW

Respondent knowingly failed to file a 40-G report by the eleventh day after the report was due. Because of this failure, the BOE is authorized to impose an additional civil penalty upon Respondent not to exceed \$10,000, as allowed by La. R.S. 18:1505.4(A)(4)(b).

Report Filing Requirements and Penalties

Every candidate (or his campaign treasurer) for an “other” public office is required to file reports of contributions and expenditures on specific days before and after an election if he (a) makes expenditures in excess of two thousand five hundred dollars or (b) receives a campaign contribution in excess of two hundred dollars.¹⁵ One of these campaign finance disclosure reports is the 40-G report, which must be filed no later than the fortieth day after the general election.¹⁶ Any candidate who knowingly fails to timely file a 40-G report may be assessed a fixed statutory civil penalty in the amount of \$40 per day, not to exceed \$1,000.¹⁷

In addition to the fixed, statutory civil penalty, an additional civil penalty may be imposed for a candidate’s continued failure to file a campaign finance disclosure report.¹⁸ Prior to the imposition of any additional civil penalty, the EAB must conduct an adjudicatory hearing in accordance with the Code of Governmental Ethics.¹⁹ In a hearing under La. R.S. 18:1505.4(A)(4)(b) regarding the imposition of an additional civil penalty, the BOE must prove by clear and convincing evidence²⁰ that the candidate knowingly failed to file a campaign

¹⁴ See BOE-8.

¹⁵ See La. RS. 18:1484.

¹⁶ La. R.S. 18:1495.4(B)(6).

¹⁷ La. R.S. 18:1505.4(A)(2)(a)(iii).

¹⁸ See La. R.S. 18:1505.4(A)(4).

¹⁹ La. R.S. 18:1505.4(A)(4); La. R.S. 42:1101, *et. seq.*

²⁰ See La. R.S. 42:1141.5(C). “‘Clear and convincing evidence’, in general, means that the fact of guilt must be

finance disclosure report by the eleventh day after it was due. A rebuttable presumption of intent not to file reports exists when a candidate fails to submit any required report within three days after the final date for its filing.²¹

Underlying “Late Fee” (Civil Penalty) Assessment

Respondent was an unsuccessful candidate for St. Landry Parish Council Member, District 6, which is an “other” public office.²² Because Respondent received a campaign contribution in excess of two hundred dollars, he was required to file certain campaign finance disclosure reports, including a 40-G report.²³ Respondent was required to file his 40-G report no later than December 27, 2019, the fortieth after the November 16, 2019, general election.²⁴ Respondent did not file his 40-G report by the November 6, 2019, deadline. The BOE sent Respondent a *Late Fee Assessment Order* assessing the maximum “late fee” (civil penalty) of \$1,000 for his failure to file the required 40-G report.²⁵

Assessment of Additional Civil Penalty

With the benefit of the unrebutted statutory presumption of intent not to file, the BOE proved by clear and convincing evidence that Respondent knowingly violated the CFDA by failing to file his 40-G report by January 7, 2020, the eleventh day after the December 27, 2019, deadline. As a result, the BOE is authorized to impose an additional civil penalty up to \$10,000, as allowed by La. R.S. 18:1505.4(A)(4)(b).

proven to a greater degree than by ‘a mere preponderance of the evidence’ but less than by ‘beyond a reasonable doubt.... The standard requires that the existence of the disputed fact be [h]ighly probable, that is, much more probable than its non-existence.’” *Louisiana State Bar Ass’n v. Edwins*, 329 So. 2d 437, 442 (La. 1976).

²¹ La. R.S. 18:1505.1(A).

²² Under the CFDA, an “other” public office is one that is not a “major” office (La. R.S. 18:1483(11)) or a “district” office (La. R.S. 18:1483(7)).

²³ See La. R.S. 18:1484(2)(b).


²⁴ La. R.S. 18:1495.4(B)(6).

²⁵ The *Late Fee Assessment Order* was not appealed by Respondent and is not before the EAB in this matter. See BOE-7 and La. R.S. 18:1511.4.1(C) (providing individuals a right to appeal a final order for the payment of civil penalties).

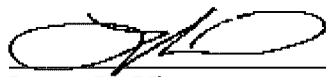
ORDER

IT IS ORDERED that the Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure and in accordance with La. R.S. 18:1505.4(A)(4)(b), is authorized to impose upon Warren “Biscuit” Basco an additional civil penalty not to exceed \$10,000 for his failure to file his 40-G campaign finance disclosure report by the eleventh day after it was due.

Rendered and signed on December 17, 2020, in Baton Rouge, Louisiana.


A. Brock Avery
Presiding Administrative Law Judge


Sherlyn Shumpert
Administrative Law Judge


Lance B. Vinson
Administrative Law Judge

NOTICE OF TRANSMISSION OF DECISION OR ORDER

I certify that on Thursday, December 17, 2020, I have sent a copy of
this decision/order to all parties of this matter.

Clerk of Court
Division of Administrative Law

REVIEW RIGHTS

Requests for rehearing, reopening, or reconsideration are subject to the procedures, timing requirements, and legal grounds provided in Louisiana Revised Statute 49:959, with the time for filing calculated pursuant to Louisiana Code of Civil Procedure article 5059. To determine your review rights, you should act promptly and seek legal advice.

To request a rehearing or reconsideration, please send it to one of the addresses indicated below:

EMAIL documents to:
EABprocessing@adminlaw.state.la.us

FAX documents to:
EAB Section Deputy Clerk
(225) 219-9820

MAIL documents to:
DAL – EAB Section
ATTN: EAB Section Deputy Clerk
P. O. Box 44033
Baton Rouge, LA 70804-4033

If you do not request a rehearing of your decision or your rehearing request is denied, you have the right to seek judicial review in accordance with La. R.S. 42:1142(A)(1), with the time for requesting judicial review calculated pursuant to La. C.C.P. art 5059. To determine your review rights, you should act promptly and seek legal advice.